

IN THE MATTER OF * **BEFORE THE MARYLAND STATE**
DONALD A. LUCIENNE, CSC-AD * **BOARD OF PROFESSIONAL**
Respondent * **COUNSELORS AND THERAPISTS**
Certificate Number: SC2633 * **Case Number: 2019-057**

* * * * *

FINAL ORDER

On or about September 20, 2019 the Maryland State Board of Professional Counselors and Therapists (the “Board”) notified **DONALD A. LUCIENNE, CSC-AD** (the “Respondent”), of the Board’s intent to revoke his certificate to practice as a Certified Supervised Counselor – Alcohol and Drug (“CSC-AD”), Certificate Number SC2633, under the Maryland Professional Counselors and Therapists Act (the “Act”), codified at Md. Code Ann., Health Occ. §§ 17-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

Specifically, the Board based its intent to revoke on the following provisions of the Act:

§ 17-509. Denial, probation, suspension or revocation of certificate applicant or holder.

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (13) Violates any rule or regulation adopted by the Board;

- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy[.]

Pursuant to Health Occ. § 17-509(8) and (13), shown above, the Board also based its intent to revoke on the following provisions of the Code of Ethics adopted by the board, codified at Md. Code Regs. (“COMAR”) 10.58.03 *et seq.*, in particular:

COMAR 10.58.03.04

- A. A counselor shall:
 - (11) Be familiar with and adhere to this chapter;
 - (14) Take reasonable precautions to protect clients from physical or psychological trauma.
- B. A counselor may not:
 - (3) Enter into relationships that could compromise a counselor’s objectivity or create a conflict of interest.

COMAR 10.58.03.05

- A. Client Welfare and Rights.
 - (2) A counselor may not:
 - (a) Place or participate in placing clients in positions that may result in damaging the interests and the welfare of clients, employees, employers, or the public;
- B. Dual Relationships.
 - (1) A counselor shall:
 - (a) Avoid dual relationships with clients[.]

COMAR 10.58.03.09

- A. A counselor may not engage in sexual misconduct with a client or supervisee. Sexual misconduct includes but is not limited to:
 - (2) Sexual exploitation;
 - (3) Sexual harassment;
 - (4) Sexual behavior;
- B. Concurrent Sexual Relationships. A counselor may not engage in either consensual or forced sexual behavior with:
 - (1) A client;
- E. Sexual Harassment.
 - (1) A counselor may not sexually harass a:
 - (a) Client[.]

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. BACKGROUND

1. The Respondent was originally approved as an alcohol and drug trainee on September 23, 2015, under Trainee Number ADT1121.

2. At all times relevant, the Respondent was authorized to practice alcohol and drug counseling in the State of Maryland. The Respondent was originally certified to practice as a CSC-AD in the State of Maryland on December 11, 2018, under Certificate Number SC2633. The Respondent's certificate is scheduled to expire on January 31, 2020.

3. On March 5, 2019, the Board issued an Order for Summary Suspension of the Respondent's CSC-AD certificate pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c)(2) (2014 Repl. Vol. and 2018 Supp.) concluding that the public health,

safety, or welfare imperatively required emergency action in the case. On May 17, 2019, after holding a post-deprivation show cause hearing, the Board issued a Disposition Order, which affirmed the Order for Summary Suspension.

II. COMPLAINT

4. On or about January 25, 2019, the Board received a complaint filed by the Respondent's clinical supervisor (the "Clinical Supervisor") at a substance abuse treatment facility (the "Facility"). The complaint alleged the Respondent engaged in sexual misconduct with a client while that client was in treatment under the Respondent's care ("Client A").

5. After receiving the Clinical Supervisor's complaint, the Board initiated an investigation of the Respondent under Case Number 2019-057.

III. BOARD INVESTIGATION

6. As part of its investigation, the Board subpoenaed records from the local Sheriff's Office (the "Sheriff's Office"), the Respondent's personnel file from the Facility, and conducted interviews.

7. The Sheriff's Office Incident Report (Case Number 01-19-000278) revealed that on January 2, 2019, Client A reported the following to a sheriff's deputy:

[B]etween the Winter of 2016 and 9/25/18 a counselor at the [the Facility] was extorting her at the center by allowing her to miss classes in exchange for sex.

....

In the Winter of 2016 . . . the counselor identified as [the Respondent] told her he would have to drop her from the treatment program because she was

not attending her the [sic] required treatment plan meetings . . . He told her he could help her if she could help him.

From that point forward for approximately 5 visits of 6 per week she stated she gave him oral sex in the office.

This continued unit [sic] 9/25/18; approximately 200 times.

. . . [Client A] stated he also came to her residence uninvited and they a [sic] intercourse at her residence. . . .

The visit at the residence occurred several times and was witnessed by her "sugar daddy" . . . several times.

The victim stated the suspect gave her \$50-\$60 occasionally during the visits to her residence and would occasionally give her \$10.00 during the office oral sex sessions. . . . She stated she felt the money was being given to her as a tip.

8. A Supplement to the Sheriff's Office Incident Report revealed on January 16, 2019, the Respondent reported the following to the officer:

[H]e initially denied any sexual contact. . . . [The officer] informed the [Respondent] if the two had consensual sex then that was different than rape. The [Respondent] paused for an extended period of time but stated it was a "catch 22" because "it would jeopardize what I'm doing here." [The officer] asked the [Respondent] again if he ever had consensual sex with [Client A] and he eventually stated he had sex with her one time at one of her friend's house [sic]. . . . The [Respondent] further advised he only had sex with [Client A] one time approximately 3 months ago. The [Respondent] stated sex was initiated when [Client A] showed him a nude picture of herself and told him to meet her at her friend's house. The [Respondent] denied any further sexual contact occurred.

9. The Respondent's personnel file from the Facility revealed he had been employed at the Facility from February 2, 2016 until January 23, 2019, when the Respondent was terminated.

10. After the Respondent was terminated, the Clinical Supervisor met with the Respondent's former clients to arrange transfer of their care. During these meetings four

additional clients (“Client B,” “Client C,” Client D,” and “Client E”) reported allegations of inappropriate behavior by the Respondent. According to the Clinical Supervisor, the following was reported:

- a. On February 13, 2019, Client B reported that the Respondent “touched [her] breasts.”
- b. Client C reported that the Respondent engaged in a personal relationship with an individual Client C resided with who was a former client of the Facility. Client C reported that the Respondent stopped at Client C’s residence on more than one occasion to buy the former client cigarettes, food, and other items. Finally, Client C reported that the Respondent tried to solicit the former client for sex for further favors.
- c. On February 12, 2019, Client D reported that he felt the Respondent was “too handsy” and it made Client D uncomfortable. Client D further reported that the Respondent “touched [Client D’s] butt a couple times” and spoke openly to Client D about his sexual encounters with another client.
- d. On February 13, 2019, Client E reported in Fall 2018 the Respondent asked Client E to go into the Respondent’s office where the Respondent tried to kiss Client E. Client E further reported that the Respondent told her that he could make people do what he wanted them to do.

11. The Respondent's personnel file revealed three additional incidents of the Respondent engaging in inappropriate behavior with clients, which did not involve the incidents regarding Client A, Client B, Client C, Client D, or Client E.

- a. First, on or about May 14, 2017, the Facility received a report that the Respondent was engaging in inappropriate conduct with a female client. The Respondent denied engaging in inappropriate behavior and stated that he felt the allegation was due to him "hugging" female clients.
- b. Then, on or about August 4, 2017, the Facility received a report that the Respondent was seen giving \$50 to a client. When questioned, the Respondent admitted that he loaned money to the client.
- c. Finally, on August 24, 2017, the Facility received a report that a third party walked in on the Respondent while he was engaging in a sexual act with a client.

12. On February 12, 2019, the Board's investigator interviewed the Respondent under oath, at which time, the Respondent:

- a. Stated that he was Client A's counselor at the Facility. The Respondent further stated that Client A attended the Facility for approximately a year before she was assigned to him in early 2018.
- b. The Respondent stated Client A showed him a photograph of her genitalia on her cellphone.

- c. Initially he said he “never had sex with her,” “unless, you know, seeing the photo, you know, it can be construed as having sex.”
- d. But then when the Respondent was asked again, he admitted he had sex with Client A “[m]aybe two times.”
- e. He alleged Client A “enticed” him to have sex with her “with [the] photograph on her cell phone” of her genitalia. He further stated “it’s a rare occasion for someone to show me their genitalia on the cell phone. And, you know, . . . I was interested, you know, so.”
- f. He claimed that the two sexual interactions were not in exchange for money, but he did admit that he gave her money for gas twice.
- g. He said the two sexual interactions occurred in the middle of 2018 at Client A’s friend’s house, not at the Facility.
- h. The Respondent stated that the only time he spoke to Client A about being discharged was when “she had not had a clean urine, and she told me quite clearly, I’m a prostitute and a crackhead and a dope fiend.” Therefore, the Respondent said he increased the number of sessions with Client A and then Client A “disappeared” and one of the other counselors told him she had been arrested. Consequently, he said he had to had to terminate her according to protocol.

13. On March 13, 2019, the Board's investigator interviewed Client B under oath, at which time, Client B:

- a. Stated that the Respondent was her counselor at the Facility.¹
- b. She further stated that the Respondent "liked to touch [her] a lot" and would "rub on [her] legs."
- c. Finally, she reported that the Respondent "always hugged" her and "when he would release [her], he would rub [her] breasts."

14. On March 13, 2019, the Board's investigator interviewed Client C under oath, at which time, Client C:

- a. Stated that she was a client at the Facility, but the Respondent was not her primary counselor. Client C, however, stated that one day she had to see the Respondent² because her primary counselor was not present at the Facility. During this encounter, the Respondent "was coming on to [her] sexually."
- b. She further stated that on at least two occasions the Respondent loaned her money for cigarettes.
- c. Finally, she stated that during the Summer of 2018 a female client was residing with Client C, during which time, Client C observed the

¹ A review of Client B's treatment records from the Facility confirmed the Respondent was Client B's individual counselor from approximately 2016 until on or about December 31, 2018.

² A review of Client C's treatment records from the Facility confirmed the Respondent saw Client C for individual sessions on or about August 11, 2018 and on or about November 5, 2018.

Respondent come to the residence and pick up the client on at least five occasions.

15. On March 13, 2019, the Board's investigator interviewed Client D under oath, at which time, Client D:

- a. Stated that while the Respondent was his counselor at the Facility,³ the Respondent "like[d] to get huggy and kissy," "slapped me on my ass. He pinched my butt. He pinched my titties."
- b. Client D further stated that the Respondent told him he paid a client for sexual contact. This other client also informed Client D of the *quid pro quo* arrangement.

16. On March 27, 2019, the Board's investigator interviewed the Clinical Supervisor under oath, at which time, the Clinical Supervisor reported having the following practice issues with the Respondent while he was employed at the Facility:

- a. She received a report in May 2017⁴ that the Respondent had engaged in inappropriate conduct with a female client. After receiving the report, she "had a very direct conversation" with the Respondent where the Respondent denied inappropriate conduct, but stated that he felt like the report may have been because he was hugging clients. At

³ A review of Client D's treatment records from the Facility confirmed the Respondent was Client D's individual counselor from approximately 2016 until January 22, 2019.

⁴ This is the same incident as noted *supra* in ¶ 11(a).

this meeting the Clinical Supervisor educated the Respondent on ethics and the appropriateness of hugging clients.

- b. In August 2017,⁵ she received a report that the Respondent was seen giving \$50 to a client. She met with the Respondent where he admitted that he loaned money to a client. At this meeting the Clinical supervisor educated the Respondent on the policy about giving and receiving gifts and gave the Respondent a copy of the code of ethics.
- c. At the end of August 2017,⁶ she received a report that the Respondent engaged in a sexual act with a client in his office. After she received the report, they moved the Respondent's office to a higher traffic area across from the front-desk in order to provide eyes on his office at all times. The Facility also moved as many female clients off his caseload as possible "because this just seemed to be a recurring theme."
- d. In December 2017 she received information that the Respondent may have disclosed client information to another client resulting in a verbal warning being issued to the Respondent.
- e. In July 2018 one of the Respondent's male clients requested a change in counselor after the Respondent hired the client to perform handy work for the Respondent.

⁵ This is the same incident as noted *supra* in ¶ 11(b).

⁶ This is the same incident as noted *supra* in ¶ 11(c).

- f. After the Respondent was terminated, she met with the Respondent's clients at which time four additional clients (Client B, Client C, Client D, and Client E) came forward with complaints about the Respondent's behavior.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct as described above constitutes violations of the Act and a basis on which to revoke the Respondent's certificate to practice as a Certified Supervised Counselor – Alcohol and Drug. Specifically:

The Respondent's actions including engaging in dual relationships and sexual misconduct with individual(s) with whom he rendered professional services, as set forth above, constitutes violations of: Health Occ. § 17-509(8) (violates the code of ethics adopted by the Board); § 17-509(9) (knowingly violates any provision of this title); § 17-509(13) (violates any rule or regulation adopted by the Board); and/or § 17-509(16) (commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy) in that the Respondent violated COMAR 10.58.03.04(A)(11), (A)(14), and (B)(3), and COMAR 10.58.03.05(A)(2)(a) and (B)(1)(a), and COMAR 10.58.03.09(A)(2)-(4), (B)(1), and (E)(1)(a).

ORDER

Based on the foregoing, it is this 29th day of October 2019, by the Board hereby:

ORDERED that the Respondent's certificate to practice as a Certified Supervised Counselor – Alcohol and Drug is hereby **REVOKED**; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2014).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 17-512(b), the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Kimberly Link, J.D., Executive Director
Maryland State Board of Professional Counselors and Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215-2299
Phone: 410-764-4732
Fax: 410-358-1610

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

October 29, 2019
Date



Risa L. Ganel, MS, LCMFT
Board Chair
Maryland State Board of Professional
Counselors and Therapists